



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 30315607

Date: JUN. 28, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Multinational Managers or Executives)

The Petitioner, a jiu-jitsu athlete, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner had not satisfied the initial evidentiary criteria, of which he must meet at least three. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the [noncitizen] has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the [noncitizen] seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the [noncitizen's] entry into the United States will substantially benefit prospectively the United States.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then they must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner, a jiu-jitsu athlete, has competed in numerous national and international jiu-jitsu competitions.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner claimed to meet the requirements of the evidentiary criteria relating to lesser awards at 8 C.F.R. § 204.5(h)(3)(i), membership at 8 C.F.R. § 204.5(h)(3)(ii), judging the work of others at 8 C.F.R. § 204.5(h)(3)(iv), display at 8 C.F.R. § 204.5(h)(3)(vii), and leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii). The Director determined that the Petitioner did not meet the plain language requirements of any of the claimed evidentiary criteria. On appeal, the Petitioner maintains that he satisfied all five of the claimed criteria and contends that the Director did not sufficiently analyze his assertions and the submitted evidence with respect to these criteria.

Documentation of the [noncitizen’s] receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i),

The Director found that the Petitioner did not satisfy this criterion. However, we find sufficient documentary evidence to establish that the Petitioner received nationally and internationally recognized awards from the International Brazilian Jiu-Jitsu Federation (IBJJF), and the Director’s determination on this issue will be withdrawn. For example, the Petitioner submitted evidence of his receipt of numerous awards in Brazilian jiu-jitsu competitions, including First Place Gold in the International Brazilian Jiu-Jitsu Federation (IBJJF) [REDACTED] in 2016. The Petitioner also

presented evidence showing that the IBJJF [] is the top tournament for competitors in jiu-jitsu. In light of the above, the Petitioner has established that he meets this criterion.

Documentation of the [noncitizen's] membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.
8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner claims that he meet this criterion based on his membership in the IBJJF as a certified black belt. To satisfy this criterion, the Petitioner must show that he is a member of an association in his field, and that membership in the association is based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought. *See generally 6 USCIS Policy Manual F.2(B)(1)*, <https://www.uscis.gov/policymanual>.

The Petitioner submitted a copy of his black belt certificate issued by [] and a copy of his IBJJF membership card showing that he is a certified black belt member. The Petitioner also submitted an excerpt from the IBJJF publication titled General System of Graduation. Article 5.1 of this publication lists the “IBJJF Basic Requirements to Obtain the Black Belt Certificate and Degrees,” which states that an applicant for an IBJJF black belt certificate or degree:

- Must be affiliated to IBJJF in the current year
- Can not be an athlete with provisional graduation
- Must provide First Aid or CPR course certificate
- Must attend an IBJJF Referee Course within a 12-month period before the date of the request
- Must be a professor or assistant professor at an academy affiliated with IBJJF or an athlete practicing jiu-jitsu in an IBJJF-registered academy who was graduated by a professor who is a black belt with at least 2 degrees certified by IBJJF.

Article 4.1.3 of this IBJJF publication further addresses the degree system for athletes who have achieved a black belt ranking. It states that “promotion to a new degree in the black belt is only valid starting from the issuance of an IBJJF diploma, after the applicant meets the basic requirements present in Article 5.”

The Petitioner also submitted articles identifying IBJJF as “the most famous and prestigious federation in the jiu-jitsu world,” as well as two academic papers (a journal article and a master’s thesis) whose authors state that the Brazilian jiu-jitsu black belt is recognized as one of the most difficult black belts to achieve in martial arts, often requiring a decade or more of dedicated training.

The Director concluded that the Petitioner did not demonstrate that he meets this criterion. On appeal, the Petitioner asserts that the Director failed to properly weigh the submitted evidence and emphasizes that a certified black belt represents a high level of membership in IBJJF and that the information contained in the IBJJF publication is sufficient to establish by a preponderance of the evidence that the achievement of membership in IBJJF with a black belt certification requires outstanding achievements as judged by recognized national or international experts in the field.

Upon review, we conclude that the Petitioner has not established that he satisfies this requirement based on his IBJJF membership as a certified black belt. The IBJJF's General Systems of Graduation indicates that the federation distinguishes between academy-issued black belt graduation certificates and IBJJF-issued black belt diplomas. For example, Article 4.1.3 states that "every promotion to a new degree in the black belt is only valid starting from the issuance of an IBJJF diploma, after the applicant meets the basic requirements present in Article 5."

Further, the stated "Basic Requirements" to obtain an IBJJF black belt certificate include submission of an application as well as evidence of "affiliation to IBJJF," completion of a first aid or CPR course, attendance at an IBJJF Referee course, and evidence of practicing or teaching jiu-jitsu at an IBJJF-affiliated academy for a specific period. Based on these stated requirements, receipt of initial membership as a black belt-certified member of IBJJF does not involve a process by which one must be judged as having outstanding achievements by recognized national or international experts in the field.

The Petitioner highlights Article 5.2.1 of the IBJJF General System of Graduation, which states that "the Black belt certification graduation for each new degree is an individual process that depends on a thorough analysis by the IBJJF including examination of documents. . . ." However, there is no evidence that the Petitioner has been granted any certificate from the IBJJF beyond the initial black belt certificate or that his membership has been reviewed according to these requirements, which appear to be applicable only to additional black belt degrees. Further, it is unclear what is entailed by the IBJJF's "thorough analysis" of documents or what criteria are considered in such review, such that we could conclude that additional degrees require outstanding achievements.

We acknowledge the Petitioner's assertion that acquiring the advanced knowledge and skills necessary for black belt certification in jiu-jitsu is a demanding process that requires years of training and dedication, and that earning a black belt represents a significant achievement for practitioners of the sport. However, for the reasons discussed above, the evidence submitted here does not show that the Petitioner has a membership in an association that satisfies all elements of the criterion at 8 C.F.R. § 204.5(h)(3)(ii).

Evidence of the [noncitizen's] participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv).

This regulatory criterion requires a petitioner to show that not only has an individual been invited to judge the work of others, but also that the individual actually participated in the judging of the work of others in the same or allied field of specialization. *See generally 6 USCIS Policy Manual, supra*, at F.2(B)(1). The Petitioner claims eligibility for this criterion based on the claim that he served as a voluntary referee at the IBJJF's [REDACTED] Jiu-Jitsu Open. In support of this claim, the Petitioner submitted a letter from [REDACTED] the leading referee for the IBJJF, confirming his participation as a referee, as well as photos of him at the event.

The Petitioner, however, did not provide a description of his duties as a referee to demonstrate that they involved evaluating or judging the work or skills of competitors. Further, the record lacks other evidence, such as official competition rules for the event, showing that serving as a referee in this

instance equates to participating as a “judge” of the work of others. Although the Petitioner argues that his referee duties were subjective in nature, without further documentation such as evidence that he awarded points or exercised his judgment in choosing the ultimate winner at these events, we cannot determine whether serving as a referee at a jiu-jitsu event is insufficient to meet this criterion.

Again, this regulatory criterion requires a petitioner to show that he has acted as a judge of the work of others in the same or an allied field of specialization. Here, the Petitioner’s evidence does not reflect the duties of a jiu-jitsu referee involve evaluating or judging the work of jiu-jitsu competitors as opposed to enforcing the rules of a match and ensuring sportsmanlike competition. *See Victorov v. Barr*, 2020 WL 3213788, at *8 (C.D.C.A. Apr. 9, 2020) (finding a rational connection between the regulation’s phrase “judge of the work of others” and our distinction between that and rule enforcement). Absent evidence that he exercised his judgment in choosing the ultimate winner, the Petitioner has not sufficiently shown that the role of a jiu-jitsu referee includes participating as a judge of the work of others consistent with this regulatory criterion.

The Petitioner also asserts that he satisfies this criterion by virtue of his evaluation of practitioners in the sport to determine whether they merit graduation to higher belt ranks. In support of this assertion, the Petitioner claims that he served as a “Blackbelt Professor” and subjectively evaluated individuals and their skills and performances.

In support of this assertion, the Petitioner submitted letters from Brazilian jiu-jitsu athletes who attest that the Petitioner “graduated” them to higher belt levels at graduation ceremonies held at [REDACTED] [REDACTED]. The Petitioner also submitted excerpts from the IBJJF General System of Graduation as well as copies of “graduation certificates” issued to these athletes. The Petitioner also submitted a news article published in *FloGrappling* regarding jiu-jitsu promotions.

According to the *FloGrappling* article, “promotions in jiu-jitsu are subjective and does completely at the discretion of an athlete’s coach.” It further states that “there is no set criteria for when a promotion should take place.” Moreover, Article 5.2.1 of the IBJJF General System of Graduation states that “the Black belt certification graduation for each new degree is an individual process that depends on a thorough analysis by the IBJJF including examination of documents, therefore, there is no set time for its conclusion.” However, it is unclear what is entailed by the IBJJF’s “thorough analysis” of documents or what criteria are considered in such review. The preceding documentation is not tantamount to evidence of the Petitioner’s participation, either individually or on a panel, as a judge of the work of others in his field and suggests his claimed judging duties were performed in connection with his work as a coach or instructor.

For example, Article 6 of the IBJJF General System of Graduation indicates that professors or instructors sign graduation certificates. As the Petitioner claimed to serve as a blackbelt professor, we cannot conclude that evaluation of athletes under his tutelage satisfies the plain language of this criterion. In an occupation where “judging” the work of others is an inherent duty of the occupation, such as a jiu-jitsu instructor, coach, or professor, simply performing one’s job-related duties demonstrates competency and is inherent to the position. While we acknowledge that jiu-jitsu instructors, coaches and professors evaluate the physical conditioning of athletes and prepare athletes for competition by holding practice sessions to perform drills and to improve the athletes’ skills and techniques, we do not find that evaluating athletes in this context constitutes participation as a judge

of the work of others for purposes of 8 C.F.R. § 204.5(h)(3)(iv). Accordingly, the Petitioner has not satisfied this criterion.

Evidence of the display of the [noncitizen's] work in the field at artistic exhibitions or showcases. 8 C.F.R. § 204.5(h)(3)(vii).

The Director found that the Petitioner did not meet this criterion as his competitions were athletic in nature. On appeal, the Petitioner asserts that martial arts are akin to performing arts and submits a number of articles in support of this assertion.

In order to demonstrate eligibility for this criterion, the Petitioner must show that his work was on display, and the venues were artistic exhibitions or showcases. *See generally 6 USCIS Policy Manual, supra*, at F.2(B)(2). The Petitioner does not document that he displayed his skills other than when competing. While we do not question that competing successfully is relevant, probative information for eligibility, the Petitioner did not provide evidence that he has displayed his talent at exhibitions or showcases other than sports competitions. A complete review of the record reflects that the Petitioner has not established that his jiu-jitsu fights and competitions were of an artistic nature, or that the events themselves constituted artistic venues. Accordingly, the Petitioner has not demonstrated that he meets the plain language of this criterion.

As discussed above, we find that the Petitioner meets the lesser awards criteria but does not meet the criteria relating to membership, judging, and display. Although the Petitioner also claims to satisfy an additional criterion related to leading or critical role on appeal, we need not reach this issue. We reserve it as he cannot meet the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3). *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

Because the Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3), we need not provide the type of final merits determination described in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, determining that it does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought. The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994). Here, the Petitioner has submitted documentation of his achievements but has not demonstrated that these achievements have translated into a level of recognition that constitutes sustained national or international acclaim or demonstrates a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Furthermore, the record does not otherwise demonstrate that the Petitioner is one of the small percentage of individuals who have risen to the very top of the field of endeavor. Section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

ORDER: The appeal is dismissed.